

REMARKS

I. STATUS OF THE CLAIMS

Claims 1 and 5-27 are pending in the present Application. The Office acknowledged applicant's withdrawal of claims 1, 5-20. Claims 21-27 are withdrawn without prejudice or disclaimer of the subject matter therein. Claims 28-33 are added by the present amendment.

Claims 21-27 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 21-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Weaver D456,644 in view of Corson, 6,283,564.

Claims 21 and 24-26 are rejected under 35 U.S.C. § 102(b) as being anticipated by Elmer, 4,188,067.

Claims 22, 23, and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Elmer, 4,188,067, in view of Grisley, 5,711,356.

Applicant respectfully traverses all rejections and requests reconsideration.

A. REJECTION UNDER 35 U.S.C. § 112

As mentioned above, Claims 21-27 are rejected under 35 U.S.C. § 112, second paragraph, (hereinafter "Section 112"), as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In rejecting Claims 21-27, Examiner stated that:

"Regarding claim 21, there is an inconsistency between the language in the preamble and a certain portion in the body of the claim, thereby making the scope of the claims unclear. ... Therefore, applicant must clarify what the claims are intended to be drawn to, i.e., either the 'the plurality of double locking mortise joints' alone or in combination with the 'the table legs and tabletop edges', and present the claims with the language which is consistent with the invention."

"Regarding claims 22-26, the claims depend from claim 21 and therefore are indefinite."

"Regarding claim 27, there is an inconsistency between the language in the preamble and a certain portion in the body of the claim, thereby making the scope of the claims unclear. ... Therefore, applicant must clarify what the claims are intended to be drawn to, i.e., either the 'the plurality of double locking mortise joints' alone or in combination with the 'the table legs and

tabletop edges', and present the claims with the language which is consistent with the invention." (Office Action, pg. 2-4)

Applicant has withdrawn claims 21-27 and added claims 28-33. New claim 28 recites, "A combination of four double locking mortise joints, four table legs each leg having a top end, and a tabletop member having four table top edges, each one of the four joints is adapted to removably connect each one of the four table legs to each one of the four table top edges,...". Support for new claim 28 can be found in applicant's specification, page 9, para. 28-29, 32, and 34-35 (i.e. "the novel joint of the present invention is hereinafter described in the context of a highly stylistic, self-assembled wood table"), as well as in applicant's drawings, Figures 1-6 (i.e. **FIG. 1** is a perspective view of a table embodying the double locking mortise joints of the present invention). Claims 29-33 depend directly on claim 28.

Accordingly, applicant respectfully submits that new claims 28-33 are allowable under Section 112.

B. REJECTION UNDER NONSTATUTORY OBVIOUSNESS-TYPE DOUBLE PATENTING

As mentioned above, claims 21-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Weaver D456,644 in view of Corson, 6,283,564. By the present amendment claims 21-27 have been withdrawn and claims 28-33 have been added.

Examiner cited 37 CFR 1.130(b), "A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application." Accordingly, a terminal disclaimer is submitted along with this amendment.

C. REJECTION UNDER 35 U.S.C § 102(b)

As mentioned above, claims 21 and 24-26 are rejected under 35 U.S.C. § 102(b), (hereinafter "Section 102(b)") as being anticipated by Elmer, 4,188,067. In rejecting claims 9 and 15, the Examiner stated:

"Regarding claim 21, as best understood, Elmer discloses, in Figures 5 and 8, a plurality of double locking mortise joints each comprising a first mortise and a second mortise..." (Office Action, pg. 8)

"Regarding claims 24-26, as best understood, these claims do not further limit the structure of the plurality of double locking mortise joints." (Office Action, pg. 9)

Applicant has withdrawn claims 21-27 and added claims 28-33. New claim 28 recites, "A combination of four double locking mortise joints, four table legs each leg having a top end, and a tabletop member having four table top edges, each one of the four joints is adapted to removably connect each one of the four table legs to each one of the four table top edges...". Elmer clearly discloses "a chair of knock-down construction, comprising: two legs" [underlining added for emphasis] (Elmer 4,188,067 Claim 1, lines 52-53). Nowhere does Elmer recite a "combination of four double locking mortise joints, four table legs each leg having a top end, and a table top member having four table top edges, each one of the four joints is adapted to removably connect each one of the four table legs to each one of the four table top edges" [underlining added for emphasis], as claimed in applicant's invention. Claims 29-33, depend directly or indirectly on claim 28.

Accordingly, applicant respectfully submits that new claims 28-33 are allowable over Elmer, under Section 102(b).

D. REJECTION UNDER 35 U.S.C § 103(a)

As mentioned above, claims 22, 23, and 27 are rejected under 35 U.S.C. § 103(a), (hereinafter "Section 103(a)") as being unpatentable over Elmer, 4,188,067, in view of Grisley, 5,711,356. In rejecting the claims, the Examiner stated:

"Regarding claim 22,... Grisley teaches between Figures 9b and 9c at least one of two mortise corners being rounded as part of a design choice. Therefore, as taught by Grisley, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make at least one of the two mortise corners rounded instead of square-edged as part of a design choice." (Office Action, pg. 10)

Regarding claim 23, 27... "it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the two mortise corners rounded instead of being squared-edged as part of a design choice." (Office Action, pg. 10-12)

Applicant respectfully traverses Examiner's rejections as explained below.

Elmer

Elmer discloses “a chair of knock-down construction, comprising: two legs.” (Elmer 4,188,067 Claim 1, lines 52-53).

Grisley

Grisley discusses a template to support and guide a cutting tool used to cut joint members in a work piece. See Grisley Fig. 1. The template is intended for making finger joints or box joints. (Grisley, col. 1, lines 8-10 and col. 2, lines 38-29). Grisley further teaches round end-on-end finger joints. (Figure 9c).

Claims 21-27 have been withdrawn and new claims 28-33 have been added and are allowable over Elmer, in view of Grisley

The three criteria for establishing a prima facie case of obviousness must exist at the time the claimed invention was made, according to the text of Section 103(a) itself. The Examiner has not established a prima facie case of obviousness using Elmer and Grisley for at least the reasons stated below.

The combination of the prior art references does not teach all of the claim limitations. Applicant has added claim 28 to include a “combination of four double locking mortise joints, four table legs each leg having a top end, and a table top member having four table top edges, each one of the four joints is adapted to removably connect each one of the four table legs to each one of the four table top edges...” [underlining added for emphasis]. This limitation is not taught in either Grisley or Elmer. Elmer teaches a “a chair of knock-down construction, comprising: two legs.” (Elmer 4,188,067 Claim 1, lines 52-53). Grisley teaches a template making joint. In addition, claim 28 requires that “the table top member is capable of being supported and stabilized by each one of the four joints without any further supporting structural members or connections existing below a horizontal plane which lies at a joining of the first mortise and second mortise” [underlining added for emphasis]. Nowhere does the combined teaching of Elmer and Grisley include this limitation. In fact, Elmer teaches a “cross-support, extending between the legs, in locked engagement with each of the legs.” (Elmer Col.1, lines 56-59; Fig. 4). Therefore, not all the limitations of claim 28 are disclosed by Elmer in combination with Grisley.

At least one of the three elements required for a rejection under Section 103(a) is missing with regard to new claim 28. The lack of any one of the three elements would make

these claims allowable over Elmer in combination with Grisley. Claims 29-33, depend directly or indirectly on claim 28, all with additional limitations, and are allowable for at least the same reasons as is claim 28.

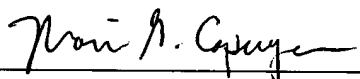
Therefore, for the aforementioned reason(s), no prima facie case of obviousness can be established for claim 28. Accordingly, applicant respectfully requests withdrawal of the rejections of claims 22, 23, and 27 under Section 103(a).

II. CONCLUSION

The above-discussed amendments and remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone applicant's representative at the number listed below.

Respectfully submitted,

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